

kmp7299/LRE
Return Date & Time:
April 11, 2019 at 2:31 PM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

CHESTLEY S. ANDERSON,

Chapter 13 Case No: 18-10390 CGM

NOTICE OF MOTION

Debtor(s).

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PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Cecelia G. Morris, Chief U.S. Bankruptcy Judge, at the United States Bankruptcy Court, One Bowling Green New York, NY 10004, on April 11, 2019 at 2:31 PM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Krista M. Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
March 20, 2019

/s/ Krista M. Preuss
KRISTA M. PREUSS, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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UNITED STATES BANKRUPTCY COURT
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IN RE:

CHESTLEY S. ANDERSON,

Chapter 13 Case No: 18-10390 CGM

Debtor(s).

APPLICATION

-----X

TO THE HONORABLE, CECELIA G. MORRIS, CHIEF U.S. BANKRUPTCY JUDGE:

KRISTA M. PREUSS, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on February 13, 2018, and, thereafter, KRISTA M. PREUSS was duly appointed and qualified as Trustee.

2. The Debtor failed to comply with 11 U.S.C. §1325(a)(6) in that the Debtor failed to submit timely Chapter 13 plan payments to the Trustee, being at this juncture, three months in arrears.

3. Furthermore, the Debtor has failed to:

- a. provide the Trustee a copy of a federal income tax return or transcript for the most recent year, pursuant to 11 U.S.C. §521(e)(2)(A)(i). to wit, 2017.
- b. Provide the trustee with certain of the required documentation, to wit, a third-party affidavit of contribution and a real estate appraisal.

4. Schedules I and J reveal that not all disposable income is being designated to the plan.

5. An objection has been filed to confirmation of the plan by the secured lender citing that the plan fails to provide for full payment of the mortgage arrearages.

6. The Debtor's failure above stated impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

7. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
March 20, 2019

/s/ Krista M. Preuss
Krista M. Preuss, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE:

CHESTLEY S. ANDERSON,

Debtor.

Chapter 13 Case No: 18-10390 CGM

CERTIFICATE OF SERVICE
BY MAIL

-----X

This is to certify that I, Lois Rosemarie Esposito, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

CHESTLEY S. ANDERSON
3012 Wallace Avenue # 2-B
Bronx, New York 10467

Vincent Cuocci, PC
320 West Main Street
Sayville, New York 11782

Caliber Home Loans, Inc.
c/o Fein Such & Crane, LLP
1400 Old Country road # C103
Westbury, New York 11590

U. S. Bank Trust, NA
c/o Caliber Home Loans, Inc.
13801 Wireless Way
Oklahoma City, Oklahoma 73134

NYC Water Board
59-17 Junction Blvd.
Elmhurst, New York 11373

This March 20, 2019

/s/Lois Rosemarie Esposito
Lois Rosemarie Esposito, Paralegal Case Support
Office of the Standing Chapter 13 Trustee
Krista M. Preuss, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

CHAPTER 13 CASE NO: 18-10390 CGM
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

CHESTLEY S. ANDERSON,

Debtor(s).

**NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE**

**KRISTA M. PREUSS
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333**
